



DELTA STEWARDSHIP COUNCIL

A California State Agency

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(916) 445-5511

July 27, 2012

Susan Dell'Osso, Project Director
River Islands at Lathrop
73 W. Stewart Road
Lathrop, CA 95330

Chair
Phil Isenberg

Members
Randy Fiorini
Gloria Gray
Patrick Johnston
Hank Nordhoff
Don Nottoli

Executive Officer
P. Joseph Grindstaff

Dear Ms. Dell'Osso:

Chairman Isenberg has asked me to respond to your July 17, 2012 letter about the status of River Islands as a covered action under the Delta Plan. In response to your request, we would be happy to meet with you and staff from the City of Lathrop at your earliest convenience to discuss this project.

The process for certifying a covered action's consistency with the Delta Plan is prescribed in the Delta Reform Act, including Water Code 85057.5 and 85225.

A key feature of the Act's consistency certification process is that the determination of whether a project is a covered action (which necessitates the filing of a certification of consistency) is made by the state or local agency that approves, funds, or carries out the project, rather than the Delta Stewardship Council. The Council's role, as provided in Water Code Section 85225.5, is to assist state and local agencies in preparing a certification through early consultation on a proposed action.

With these provisions in mind, a meeting with you and Lathrop officials would be a welcome opportunity to discuss whether River Islands at Lathrop is a covered action whose consistency with the Delta Plan is something the City would need to certify once the Delta Plan is adopted and its regulatory provisions become effective (anticipated in early 2013). In the meantime, we would suggest that you take a look at the statutory exemptions to the definition of a covered action contained in Water Code Section 85057.5 (b). Depending on the nature and timing of CEQA compliance and permit approvals, one or more of these exemptions may be relevant to your project. Water Code Section 85057.5(c), which prevents the abrogation of vested rights, may also be applicable to River Islands. We could also discuss how the draft Delta Plan's provisions regarding administrative exemptions to the covered action process would apply to River Islands if the Delta Plan is approved as drafted.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

— CA Water Code §85054

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We look forward to meeting with you and the City to further discuss the River Islands project. Council staff will contact you to schedule a meeting in Lathrop within the next week. If you have any questions or need additional information prior to our meeting, please contact me at (916) 445-0258 or cindy.messer@deltacouncil.ca.gov.

Sincerely,



Cindy Messer
Acting Deputy Director, Delta Plan

cc: Honorable Members of the Senate Natural Resources & Water Committee
The Honorable Joan Buchanan, Member of the Assembly
The Honorable Bill Berryhill, Member of the Assembly
The Honorable Cathleen Galgiani, Member of the Assembly
Honorable Mayor and Members of the Lathrop City Council
Stephen Salvatore, Interim City Manager for the City of Lathrop
Members of the Delta Coalition
Stephen Qualls, League of California Cities
Secretary John Laird, CA Natural Resources Agency
Phil Isenberg, Chair, DSC
DSC Council Members
P. Joesph Grindstaff, Executive Director, DSC
David Nelson, Senior Vice President of Land Development, A.G. Spanos Companies
Jared Ficker, California Strategies
Anthony Barkett, Esq.
Frank L. Ruhstaller, Chairman, San Joaquin County Board of Supervisors
Glenn Gebhardt, Director of Community Development/City Engineer, City of Lathrop
Kurt Schuparra, California Strategies
Michael Brown, Brown Sand and Gravel